

**Introduced by Senator Harman**

December 4, 2006

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An act to add Section 602.12 to the Penal Code, relating to crime.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 3, as introduced, Harman. Trespass: illegal immigrants.

Existing law makes it unlawful for persons to engage in certain acts of trespass and punishes most trespasses by a fine not exceeding \$1,000, imprisonment in a county jail for a period not exceeding 6 months, or by both that fine and imprisonment.

This bill would make it unlawful for any person who is a citizen of any country other than the United States to enter or occupy any public or private land in this state, if at the time of the commission of the offense, the person is in violation of federal law for illegally entering the United States. The bill would make a first violation of these provisions punishable by imprisonment in the county jail for no more than 6 months, or by fine of no more than \$1,000, or both that fine and imprisonment. The bill would make a 2nd or subsequent violation punishable by imprisonment in a state prison for 16 months, or 2 or 3 years, or by a fine not exceeding \$5,000, or by both that fine and imprisonment. By creating a new crime, the bill would impose a state-mandated local program.

The bill would also require the law enforcement agency to fingerprint a person who is arrested for a violation of these provisions. The bill authorize the law enforcement to transfer the person to the federal agency with jurisdiction or refer the person for prosecution. By imposing new duties on law enforcement agencies, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 602.12 is added to the Penal Code, to  
2 read:

3 602.12. (a) It is unlawful for any person who is a citizen of  
4 any country other than the United States to enter or occupy any  
5 public or private land in this state if, at the time of the commission  
6 of the offense, the person is in violation of Section 1325 of Title  
7 8 of the United States Code.

8 (b) The law enforcement agency shall fingerprint a person who  
9 is arrested for a violation of subdivision (a). At the discretion of  
10 the law enforcement agency on the first offense, the person may  
11 be transferred to the federal agency with jurisdiction or referred  
12 for prosecution.

13 (c) Any person who is convicted of a violation of subdivision  
14 (a) shall be punished as follows:

15 (1) For a first violation, by imprisonment in the county jail not  
16 exceeding six months, or by fine not exceeding one thousand  
17 dollars (\$1,000), or by both that fine and imprisonment.

18 (2) For a second or subsequent violation, by imprisonment in a  
19 state prison for 16 months, or two or three years, or by a fine not  
20 exceeding five thousand dollars (\$5,000), or by both that fine and  
21 imprisonment.

22 SEC. 2. No reimbursement is required by this act pursuant to  
23 Section 6 of Article XIII B of the California Constitution for certain  
24 costs that may be incurred by a local agency or school district  
25 because, in that regard, this act creates a new crime or infraction,  
26 eliminates a crime or infraction, or changes the penalty for a crime

1 or infraction, within the meaning of Section 17556 of the  
2 Government Code, or changes the definition of a crime within the  
3 meaning of Section 6 of Article XIII B of the California  
4 Constitution.

5 However, if the Commission on State Mandates determines that  
6 this act contains other costs mandated by the state, reimbursement  
7 to local agencies and school districts for those costs shall be made  
8 pursuant to Part 7 (commencing with Section 17500) of Division  
9 4 of Title 2 of the Government Code.

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